

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DAVID M. CARPENTER

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Appeal No. 1997-3704  
Application 08/572,183

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ON BRIEF

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Before CALVERT, STAAB and GONZALES, Administrative Patent Judges.

GONZALES, Administrative Patent Judge.

ON REQUEST FOR REHEARING

This is in response to the appellant's request for rehearing<sup>1,2</sup> of our decision mailed January 19, 2000 (Paper No. 14), wherein we affirmed the rejections of claims 1 and 2

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<sup>1</sup> Filed February 9, 2000.

<sup>2</sup> Effective Dec. 1, 1997, 37 C.F.R. § 1.197(b) was amended to change the term "reconsideration" to "rehearing." See the final rule notice published at 62 Fed. Reg. 53131, 53197 (Oct. 10, 1997), 1203 Off. Gaz. Pat. Office 63, 122 (Oct. 21, 1997)).

under 35 U.S.C. § 103 as being unpatentable over (1) Preiss in view of Harris and Ponczek and (2) Preiss in view of Harris, Ponczek and Akeyoshi, Ballentine or Jin, and reversed the examiner's rejections of claims 8 through 12 under 35 U.S.C. § 103 as being unpatentable over (1) Preiss in view of Harris, Ponczek, Wetterhorn and MIL-STD-454F and (2) Preiss in view of Harris, Ponczek, Wetterhorn and Akeyoshi, Ballentine or Jin.

We have carefully considered the arguments raised by appellant in the request for rehearing, however, those arguments do not persuade us that our decision was in error in any respect.

The first argument (pages 1 and 2) raised by appellant is that "appellants' 'joint' is comprised of solder that fractures to allow a controlled release and is not dependent nor structurally equivalent" to the plug taught by Ponczek (emphasis original). Specifically, appellant calls our attention to Ponczek's teaching that the pressure relief valve 78 "blows" upon a predetermined increase in pressure within the housing 11 (col. 4, lines 6 and 7) while claim 1 calls for a "joint" comprised of solder that fractures at a

"predetermined value of overpressure" to release the overpressure "at a selectively controlled rate."

We are not persuaded by this argument, which we view as another attempt to establish nonobviousness by attacking the references individually when the rejection is predicated upon a combination of prior art disclosures. See Paper No. 14, page 12. While Ponczek does disclose that the pressure relief valve 78, which includes rivet 82 and resilient adhesive 85, will actuate or "blow" upon a predetermined increase in pressure, the reference does not suggest that this actuation must be explosive for the pressure relief valve to operate properly. The affirmed rejections are based on the combined teachings of Preiss, Harris and Ponczek. As appellant recognizes (request for rehearing, page 2), Harris specifically teaches a plug 16 for controlling the admission of gases to a Bourdon gauge to safeguard the Bourdon tube against rupture. We cannot find in the record either evidence or a well-reasoned argument why Ponczek's pressure relief valve would not be capable of releasing an overpressure condition in a Bourdon tube at a selectively controlled rate

where the Bourdon tube inlet is provided with a throttling plug as taught by Harris.

At page 3 of the request for rehearing, appellant repeats assertions made in the main and reply briefs (Paper Nos. 10 and 12, respectively), namely, that the pressure relief valve 78 of Ponczek could not be used in a Bourdon tube without adversely affecting the tube, that the combination would render Preiss<sup>3</sup> inoperative or unsatisfactory for its intended purpose and lack of motivation to combine the teachings of the references. These assertions were duly considered and found to be wanting for the reasons expressed on pages 9 through 11 of our decision. Simply put, the appellant's arguments are no more persuasive now than they were before.

The appellant's request is granted to the extent of reconsidering our decision, but is denied with respect to making any changes therein.

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<sup>3</sup> Actually, the request for rehearing (page 4) refers to Ponczek as being rendered unsatisfactory for its intended purpose. We presume the reference to Ponczek is a typographical error and appellant intended to refer to Preiss, since the rejections of claims 1 and 2 were based on a proposed modification of Preiss, not Ponczek.

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No time period for taking any subsequent action in  
connection with this appeal may be extended under 37 C.F.R.  
§ 1.136(a).

DENIED

	IAN A. CALVERT	)	
	Administrative Patent Judge	)	
		)	
		)	
		)	BOARD OF PATENT
	LAWRENCE J. STAAB	)	
	Administrative Patent Judge	)	APPEALS
AND		)	
		)	INTERFERENCES
		)	
	JOHN F. GONZALES	)	
	Administrative Patent Judge	)	

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